

U.S.C. 802(6) and 812) exceeds \$2,500, the notice shall be published in a newspaper in the Customs district and the judicial district in which the property was seized for at least three successive weeks. All known parties-in-interest shall be notified of the newspaper and expected dates of publication of such notice.

(2) In all other cases, except for Schedule I controlled substances (see § 162.45a), the notice shall be published by posting in a conspicuous place accessible to the public in the customhouse nearest the place of seizure and in the customhouse at the headquarters port for the Customs district, with the date of posting noted thereon, and shall be kept posted for at least three successive weeks. Articles of small value of the same class or kind included in two or more seizures shall be advertised as one unit.

(c) *Delay of publication.* Publication of the notice of seizure and intent to summarily forfeit and dispose of property eligible for such treatment may be delayed for a period not to exceed 30 days in those cases where the port director has reason to believe that a petition for administrative relief in accord with part 171 of this chapter will be filed.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 83-72, 48 FR 11423, Mar. 18, 1983; T.D. 85-123, 50 FR 29956, July 23, 1985; T.D. 85-195, 50 FR 50290, Dec. 10, 1985; T.D. 91-52, 56 FR 25364, June 4, 1991]

**§ 162.45a Summary forfeiture of Schedule I controlled substances.**

The Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801) provides that all controlled substances in Schedule I (as defined in 21 U.S.C. 802(6) and 812) that are possessed, transferred, sold or offered for sale in violation of the Act shall be deemed contraband and seized and summarily forfeited to the United States (21 U.S.C. 881(f)). By reference, the Controlled Substances Import and Export Act (21 U.S.C. 951) incorporates this contraband forfeiture provision. See 21 U.S.C. 965. Accordingly, in the case of a seizure of Schedule I controlled substances, the port director or his designee shall contact the appropriate Drug Enforcement Administration official responsible for issuing permits authorizing the importation of

such substances (see 21 CFR part 1312). If upon inquiry the port director or his designee is notified that no permit for lawful importation has been issued, he shall declare the seized substances contraband and forfeited pursuant to 21 U.S.C. 881(f). Inasmuch as such substances are Schedule I controlled substances, the notice procedures set forth in § 162.45 are inapplicable. When seized controlled substances are required as evidence in a court proceeding, they shall be preserved to the extent and in the quantities necessary for that purpose.

[T.D. 83-72, 48 FR 11423, Mar. 18, 1983]

**§ 162.46 Summary forfeiture: Disposition of goods.**

(a) *General.* If no petition for relief from the forfeiture is filed in accordance with the provision of part 171 of this chapter, or if a petition was filed and has been denied, and the property is not retained for official use, it shall be disposed of in accordance with section 609, Tariff Act of 1930, as amended (19 U.S.C. 1609) or section 491(b), Tariff Act of 1930, as amended (19 U.S.C. 1491(b)).

(b) *Articles required to be inspected by other Government agencies.* Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by other Government agencies are sold, they shall be inspected by a representative of such agency to ascertain whether or not they meet the requirements of the laws and regulations of that agency, and if found not to meet such requirements, they shall be destroyed forthwith.

(c) *Sale—(1) General.* If the forfeited property is cleared for sale, it shall be sold in accordance with the applicable provisions of part 127 of this chapter. The port director may postpone the sale of small seizures until he believes the proceeds of a consolidated sale will pay all expenses.

(2) *Transfer to another port for sale.* Property shall be moved to and sold at such other Customs port as the Commissioner of Customs may direct pursuant to the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611), if:

(i) The laws of a State in which property is seized and forfeited prohibit the sale of such property; or

(ii) The Commissioner is of the opinion that the sale of forfeited property may be made more advantageously at another Customs port.

(d) *Destruction.* If, after summary forfeiture of property is completed, it appears that the net proceeds of sale will not be sufficient to pay the costs of sale, the port director may order destruction of the property. Any vessel or vehicle summarily forfeited for violation of any law respecting the Customs revenue may be destroyed in lieu of the sale thereof when such destruction is authorized by the Commissioner of Customs to protect the revenue.

(e) *Disposition of distilled spirits, wines, and malt liquor.* In addition to disposition by sale or destruction as provided for by this section, distilled spirits, wines, and malt liquor may be delivered:

(1) To any Government agency the Commissioner of Customs or his designee determines has a need for these articles for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency, or

(2) By gift to any charitable institution the Commissioner of Customs or his designee determines has a need for the articles for medical purposes.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 77-12, 41 FR 56629, Dec. 29, 1976; T.D. 79-159, 44 FR 31971, June 4, 1979; T.D. 85-195, 50 FR 50290, Dec. 10, 1985; T.D. 92-69, 57 FR 30640, July 10, 1992]

#### **§162.47 Claim for property subject to summary forfeiture.**

(a) *Filing of claim.* Any person desiring to claim under the provisions of section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608), seized property not exceeding \$500,000 in value (however there is no limit in value of merchandise, the importation of which is prohibited, or in the value of vessels, vehicles or aircraft used to import, export, transport, or store any controlled substance, or in the amount of any monetary instruments within the meaning of 31 U.S.C. 5312(a)(3), that may be seized and forfeited) and subject to summary forfeiture, shall file a claim to such property with the port director within 20 days from the date of

the first publication of the notice prescribed in §162.45.

(b) *Bond for costs.* Except as provided in paragraph (e) of this section, the bond in the penal sum of \$5,000 or 10% of the value of the claimed property, whichever is lower, but not less than \$250, required by section 608, Tariff Act of 1930, as amended, to be filed with a claim for seized property shall be on Customs Form 301, containing the bond conditions set forth in §113.72 of this chapter.

(c) *Claimant not entitled to possession.* The filing of a claim and the giving of a bond, if required, pursuant to section 608, Tariff Act of 1930, shall not be construed to entitle the claimant to possession of the property. Such action only stops the summary forfeiture proceeding.

(d) *Report to the U.S. attorney.* When the claim and bond, if required, are filed within the 20-day period, the port director shall report the case to the U.S. attorney for the institution of condemnation proceedings.

(e) *Waiver of bond.* Upon satisfactory proof of financial inability to post the bond, the port director shall waive the bond requirement for any person who claims an interest in the seized property.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 81-1, 45 FR 84994, Dec. 24, 1980; T.D. 84-213, 49 FR 41186, Oct. 19, 1984; T.D. 85-123, 50 FR 29956, July 23, 1985; T.D. 91-52, 56 FR 25364, June 4, 1991]

#### **§162.48 Disposition of perishable and low-value property.**

(a) *Disposition of perishable property.* Seized property which is perishable or otherwise enumerated in section 612, Tariff Act of 1930, as amended (19 U.S.C. 1612), and is covered by the provisions of section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), shall be advertised for sale and sold at public auction at the earliest possible date. The port director shall proceed to give notice by advertisement of the summary sale for such time as he considers reasonable. This notice shall be of sale only and not notice of seizure and intent to forfeit. The proceeds of the sale shall be held subject to the claims of parties in interest in the same manner